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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

STAR MARK MANAGEMENT, INC., a New York corporation, GREAT MARK CORPORATION, a New York corporation, and JIMMY ZHAN a/k/a YI Q. ZHAN, individually and on behalf of Star Mark Management, Inc. and Great Mark Corporation,	:	X
	:	07 Civ. 3208 (JFB)(SG)
<i>Plaintiffs,</i>	:	
-against-	:	
KOON CHUN HING KEE SOY & SAUCE FACTORY, LTD., a company organized under the laws of Hong Kong,	:	
<i>Defendant.</i>	:	X

**NOTICE OF DEFENDANT'S MOTION FOR SANCTIONS
AGAINST PLAINTIFFS PURSUANT TO FED. R. CIV. P. 11(c)**

PLEASE TAKE NOTICE THAT the undersigned attorneys for Defendant Koon Chun Hing Kee Soy & Sauce Factory, Ltd. will move before the Honorable Joseph F. Bianco, United States District Judge, at 225 Cadman Plaza East, Brooklyn, New York for (a) an Order granting Defendant's Motion for Sanctions Against Plaintiffs Pursuant to Fed. R. Civ. P. Rule 11; and (b) such other relief as this Court may deem just and proper.

This motion will be based upon the accompanying Memorandum of law, the accompanying declaration of Raymond Chan and Anthony A. Coppola and the accompanying exhibits, all pleadings, and such additional oral or documentary evidence as may be received prior to or at a hearing on this Motion.

The Motion is based on the fact that the claims of the Complaint are not warranted by existing law, present frivolous arguments and were filed merely to harass Koon Chun. Moreover, the following facts demonstrate plaintiff's and their counsel's violation of their duties of representations to the Court pursuant to Fed. R. Civ. P. 11(b):

- 1) The Complaint fails to state any claim upon which relief can be granted;
- 2) Plaintiffs' claims are barred, in whole or in part, under the applicable statutes of limitations;
- 3) The Complaint fails because 15 U.S.C. § 1119 alone, the statute which plaintiffs rely upon in seeking relief does not create grounds for federal court jurisdiction;
- 4) The Complaint fails because the plaintiffs did not first exhaust their administrative remedies before resorting to the Federal court;
- 5) The Complaint fails because plaintiffs are not consumers of Koon Chun products and have suffered no harm and therefore lack standing to bring this action; and
- 6) The Complaint is already or will be barred by *res judicata* once the *Koon Chun v. Star Mark* judgment (04 Civ. 2293 (JFB)(SMG)) is made final.

Dated: October 22 2008

ABELMAN FRAYNE & SCHWAB



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 22, 2008, I caused a true and complete copy of the foregoing documents:

- **Notice of Defendant's Motion for Sanctions Against Plaintiffs Pursuant to Fed. R. Civ. P. 11(c);**
- **Defendant's Memorandum of Law in Support of its Motion for Sanctions Against Plaintiffs Pursuant to Fed. R. Civ. P. 11(c);**
- **Declaration of Anthony A. Coppola in Support of Defendant's Motion for Sanctions Against Plaintiffs Pursuant to Fed. R. Civ. P. 11(c); and**
- **Declaration of Raymond Chan in Support of Defendant's Motion for Sanctions Against Plaintiffs Pursuant to Fed. R. Civ. P. 11(c).**

to be served by ECF Notification, and first class mail delivery upon:

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Attorneys for Plaintiffs

